



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 18, 2005

Mr. James M. Frazier III
Texas Department of Criminal Justice
Assistant General Counsel
P.O. Box 4004
Huntsville, Texas 77342

OR2005-02339

Dear Mr. Frazier:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 220964.

The Texas Department of Criminal Justice (the "department") received a request for information related to a specified inmate. You state that some information will be made available to the requestor but claim that the submitted information is excepted from disclosure under sections 552.101 and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by section 508.313 of the Government Code. Section 508.313(a)(1) provides that all information obtained and maintained by the department is confidential and privileged if the information relates to "an inmate of the institutional division subject to release on parole, release to mandatory supervision, or executive clemency." You state that the submitted information consists of records from the parole file of the inmate at issue, and that the inmate at issue is "an inmate of the institutional division subject to release on parole, release to mandatory supervision, or executive clemency." Based on your representations and our review of the submitted parole records, we find that the submitted information is confidential pursuant to section 508.313. Further, the requestor is an not entity authorized to obtain this particular information under

section 508.313(c). Accordingly, we conclude that the department must withhold the submitted information pursuant to section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code.¹

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).


If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

¹ Because we are able to resolve this under section 552.101, we do not address your other argument for exception.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, reading "Ramsey Abarca". The signature is fluid and cursive, with the first name "Ramsey" and last name "Abarca" clearly distinguishable.

Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/jev

Ref: ID# 220964

Enc. Submitted documents

c: Mr. Normal L. Sirak
75 Public Square, Suite 800
Cleveland, Ohio 44113
(w/o enclosures)